

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Laird, et al.

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Bill Number: AB 14

Related Bills: See Legislative History

Telephone: 845-5404

Amended Date: April 12, 2007
Introduced Date: December 4, 2006

Attorney: Tommy Leung

Sponsor: _____

SUBJECT: Civil Rights Act of 2007/Discrimination/Business Expense Deduction/Discriminating Clubs

SUMMARY

This bill would establish the Civil Rights Act of 2007, which would amend various California Codes, including the Revenue and Taxation Code (R&TC), to redefine characteristics that form the basis for prohibited discrimination.

This analysis addresses only provisions in the bill that would impact the Franchise Tax Board (FTB). This is the department's first analysis of this bill.

SUMMARY OF AMENDMENTS

The April 12, 2007, amendments made technical and substantive changes to various California Codes. Such changes do not impact FTB.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to ensure that all protected classes are recognized and protected in all sections of the law.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2008, and would be operative for taxable years beginning on or after January 1, 2008. The bill specifies that certain sections of the bill—not including those that impact the department—that would become effective January 1, 2008, are intended to be construed as illustrative, rather than restrictive.

POSITION

Pending.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Lynette Iwafuchi
for Selvi Stanislaus

5/7/07

ANALYSIS

FEDERAL/STATE LAW

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Under federal law, to which California conforms, expenses incurred for meals and entertainment are generally deductible only if it is "directly related" to or "associated with" the active conduct of the taxpayer's trade or business. Such expenses are subject to other restrictions and strict substantiation requirements. Otherwise deductible amounts are subject to a 50% limitation. "Entertainment" includes any activity generally considered to be entertainment, amusement or recreation. This includes entertaining guests at night clubs, theaters, sporting events, and at entertainment facilities such as yachts, country clubs, hunting lodges, etc. However, no deduction is allowed for club dues for membership in any business, pleasure, social, athletic, luncheon, sporting, airline, and hotel clubs.

Current state law provides that no trade or business expense deduction is allowed for expenditures made at, or payments made to, a club that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

Under Government Code section 11135, current state law prohibits discrimination against any person in the state on the basis of race, national origin, ethnic group identification, religion, age, sex, color, or disability with respect to access to benefits to any program or activity administered by the state or funded by the state.

Under the Government Code, current state law prohibits any state funds from being used for membership or for any participation involving a payment or contribution in any organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. Likewise, state agencies are prohibited from holding any meeting, conference, or other function in any facility that prohibits the admittance of any person on the basis of race, religious creed, color, national origin, ancestry, or sex.

THIS BILL

This bill would establish the Civil Rights Act of 2007 (the Act). It would amend various California codes to redefine the specific characteristics that form the basis for prohibited discrimination. Specifically, the bill would amend the R&TC to redefine the characteristics that form the basis for discrimination that, if such discrimination occurred, would result in disallowance of otherwise deductible business expenses for payments made to certain clubs. Under the provisions of the bill, such prohibited discrimination would be on the basis of ancestry and "any characteristic listed or defined in Section 11135 of the Government Code" instead of separately listing "age, sex, race, religion, color, ancestry, or national origin."

This bill would also repeal a redundant statute in the personal income tax law that disallows a deduction for expenditures made at, or payments made to, a club that restricts membership or the use of its services or facilities on the basis of specified characteristics.

This bill would also modify the provisions of the Government Code, described under the Federal/State Law section of this analysis, relating to membership in organizations and meeting facilities to reference “any characteristic listed or defined in Section 11135 of the Government Code” instead of separately listing characteristics forming the basis for prohibited discrimination.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department’s programs or operations.

LEGISLATIVE HISTORY

AB 239 (Moore, Stats., 1987, Ch. 1463) enacted the personal income tax and corporation tax business deduction disallowance statutes that would be amended by this bill.

SB 572 (Garamendi, Stats. 1987, Ch. 1139) enacted the California Bank and Corporation Tax Conformity Act of 1987 and made other law changes including adding the redundant personal income tax statute that would be repealed by this bill.

FISCAL IMPACT

This bill would not impact the department’s costs.

ECONOMIC IMPACT

This bill would not impact personal income tax or corporate income tax revenues.

LEGISLATIVE STAFF CONTACT

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